

ORIGINAL

COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

OPEN MEETING ITEM



ARIZONA CORPORATION COMMISSION

RECEIVED

2012 AUG 28 P 3:08

DATE: AUGUST 28, 2012

DOCKET NOS.: W-01445A-05-0700 AND WS-01775A-05-0700

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY
(EXTENSION OF TIME DEADLINE
CONTAINED IN DECISION NOS. 68654, 70450, AND 71688)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

SEPTEMBER 6, 2012

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

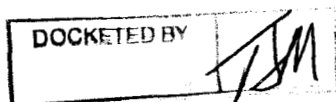
SEPTEMBER 19, 2012 AND SEPTEMBER 20, 2012

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

AUG 28 2012



ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE, Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE JOINT
9 APPLICATION OF: (1) FRANCISCO GRANDE
10 UTILITY COMPANY, AN ARIZONA
11 CORPORATION, TO TRANSFER A PORTION
12 OF ITS EXISTING CERTIFICATE OF
13 CONVENIENCE AND NECESSITY TO
14 ARIZONA WATER COMPANY, AN ARIZONA
15 CORPORATION; (2) ARIZONA WATER
16 COMPANY TO INCLUDE CERTIFICATED
17 AREA TO BE TRANSFERRED BY FRANCISCO
18 GRANDE UTILITY COMPANY IN ARIZONA
19 WATER COMPANY'S CASA GRANDE
20 CERTIFICATE OF CONVENIENCE AND
21 NECESSITY.

DOCKET NO. W-01445A-05-0700
DOCKET NO. WS-01775A-05-0700

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE ORDERED IN
DECISION NOS. 68654, 70450,
AND 71688

22 Open Meeting
23 September 19 and 20, 2012
24 Phoenix, Arizona

25 **BY THE COMMISSION:**

26 * * * * *

27 Having considered the entire record herein and being fully advised in the premises, the
28 Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On October 4, 2005, Francisco Grande Utility Company ("Francisco") and Arizona
Water Company ("AWC") ("Joint Applicants") jointly filed an application with the Arizona
Corporation Commission ("Commission") to transfer a portion of Francisco's Certificate of
Convenience and Necessity ("CC&N") to AWC and for AWC to include the same area in AWC's
Casa Grande CC&N.

2. On April 12, 2006, the Commission issued Decision No. 68654 approving the joint
application of AWC and Francisco. Pursuant to Commission Decision No. 68654 (April 12, 2006),

1 AWC was required to file, among other things, the following compliance items:

- 2 • Copies of the Arizona Department of Environmental Quality's Approval to
3 Construct ("ATC") for facilities needed to serve the requested transfer areas
4 within two years of the effective date of the Decision.
- 5 • A Notice of filing indicating AWC had submitted for Staff's review and
6 approval, a copy of the fully executed main extension agreements ("MXAs")
7 for water facilities for the requested transfer areas within two years of the
8 effective date of the Decision.
- 9 • A copy of the developer's Certificate of Assured Water Supply ("CAWS") for
10 the requested transfer areas where applicable or when required by statute,
11 within two years of the effective date of the Decision.

12 3. On March 10, 2008, AWC filed a request for additional time, until April 12, 2010, to
13 file the above compliance items.

14 4. On August 6, 2008, the Commission issued Decision No. 70450, approving AWC's
15 request for additional time, until April 12, 2010, to comply with Decision No. 68654.

16 5. On November 23, 2009, AWC filed a request for determination of compliance with
17 Decision No. 68654; or in the alternative, a request for additional time to comply with Decision No.
18 68654. In its request, AWC stated that the remaining compliance items are under the control of the
19 developer; the developer has prepared a regional groundwater model for AWC's entire Pinal Valley
20 Water Service Area to demonstrate the physical availability of groundwater in the transfer area; an
21 application for a Physical Availability Demonstration ("PAD") was filed with the Arizona
22 Department of Water Resources ("ADWR") in 2007, but has not yet been approved; the recession has
23 significantly slowed the housing market; and because the PAD is a precursor to receiving a CAWS
24 and no MXAs may be entered into without a CAWs, AWC needed more time to comply. AWC's
25 request sought a determination that it had complied with the requirements of Decision No. 68654, or
26 alternatively requested, that AWC be granted an extension of time, until April 12, 2012, to comply
27 with the Decision.

28 6. On January 19, 2010, AWC filed an amendment to its request which revised the map
submitted for the transfer area; provided a copy of the approved ADWR PAD ¹ for the transfer area;
withdrew a previously submitted MXA the Company erroneously believed included the transfer area;

¹ ADWR approved the PAD application for the transfer area on December 24, 2009.

1 submitted a copy of the ATC application for the facilities needed in the transfer area; and withdrew
2 its request for a determination of compliance with Decision No. 68654. AWC further requested to
3 extend the compliance deadlines contained in Decision No. 68654, until April 12, 2012, for the ATC,
4 MXAs, and CAWS related to the transfer area.

5 7. On May 3, 2010, the Commission issued Decision No. 71688 which approved AWC's
6 request for an extension of time, until April 12, 2012, to file the ATC, MXAs, and CAWS related to
7 the transfer area.

8 8. On December 9, 2011, AWC filed its third Request for Additional Time for
9 Compliance Filing ("Request"). The Request seeks an extension of time, until April 12, 2014, to
10 comply with Decision No. 68654. The Request included a map of the transfer area; an ATC for the
11 facilities needed in the extension area; a PAD (which AWC states meets the requirements of a
12 CAWS) issued by ADWR; and letters from each property owner or property owner's representative
13 for each parcel of real property located in the transfer area. Further, the Request states that the deep
14 recession and real estate crash over the last several years have created extraordinary circumstances
15 that have not been seen since the Great Depression; and therefore, AWC needs additional time to
16 comply with the Decision.

17 9. On August 10, 2012, Staff filed a memorandum stating that it does not object to
18 AWC's request for an extension of time, until April 12, 2014, to comply with Decision No. 68654.
19 Staff states that although it accepts the PAD as evidence of progress toward compliance with the
20 CAWS, Staff does not consider the provision of the PAD to represent compliance with the CAWS
21 requirement as stated in Decision No. 68654. Staff concludes that the AWC's should be seeking an
22 extension of time for both the MXA and the CAWS; that generally the remaining compliance items
23 are under the control of the developer rather than the Company; and that the length of the extension
24 of time is due to the economy and its continuing effect on the market. Therefore, Staff recommends
25 approval of AWC's request for an extension of time, until April 12, 2014, to comply with Decision
26 No. 68654, by obtaining the remaining MXA and CAWS. Staff further recommends that no further
27 time extensions be granted in this matter.

28 10. Based on AWC's timely request for extension of the deadlines to obtain the MXA and

1 CAWS as set forth in Decision No. 68654; letters from each property owner or property owner's
 2 representative located in the transfer area demonstrating a continuing need for service; and the effect
 3 of the economy on development in the transfer area, we find that AWC's request for an extension of
 4 time to comply with Decision No. 68654 is reasonable and should be granted.

5 11. Further, although we are not adopting Staff's recommendation that no further time
 6 extensions should be granted for compliance with Decision No. 68654, we will put the Joint
 7 Applicants on notice that any further requests for extension of time to comply must demonstrate that
 8 extraordinary circumstances exist that warrant additional time.

9 CONCLUSIONS OF LAW

10 1. AWC and Francisco are public service corporations within the meaning of Article XV
 11 of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

12 2. The Commission has jurisdiction over AWC, Francisco and the subject matter
 13 described herein.

14 3. AWC's request to for an extension of time, until April 12, 2014, to comply with the
 15 requirements outlined in Decision No. 68654, is reasonable and should be granted.

16 ORDER

17 IT IS THEREFORE ORDERED that Arizona Water Company is hereby granted an extension
 18 of time, until April 12, 2014, to comply with Commission Decision No. 68654, by filing a notice in
 19 this docket, that Arizona Water Company has submitted for Staff's review and approval, a copy of a
 20 fully executed main extension agreement for the water facilities in the transfer areas, and a copy of
 21 the developer's Certificate of Assured Water Supply for the transfer area where applicable or when
 22 required by statute.

23 ...

24 ...

25 ...

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28 ...

1 IT IS FURTHER ORDERED that Arizona Water Company and Francisco Grande Utility
2 Company, are hereby put on notice that no additional extensions of time shall be granted regarding this
3 matter absent extraordinary circumstances.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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6

7 CHAIRMAN

COMMISSIONER

9 COMMISSIONER

COMMISSIONER

COMMISSIONER

11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this _____ day of _____, 2012.

16 ERNEST G. JOHNSON
17 EXECUTIVE DIRECTOR

18 DISSENT _____
19

20 DISSENT _____
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1 SERVICE LIST FOR:

ARIZONA WATER COMPANY AND
FRANCISCO GRANDE UTILITY COMPANY

2
3 DOCKET NOS.:

W-01445A-05-0700 AND WS-01775A-05-0700

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